

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Mahle, Inc.)
Map 18, Control Map 18, Parcel 125, S.I.000) Hamblen County
Industrial Property)
Tax Year 2006)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$398,400	\$16,594,000	\$16,992,400	\$6,796,960

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 11, 2007 in Johnson City, Tennessee. The taxpayer, Mahle, Inc., was represented by registered agent Dean A. McQuown. The assessor of property, Keith Ely, represented himself.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 42.3 acre site improved with three industrial buildings containing 460,920 square feet and a water treatment plant located at One Mahle Drive in Morristown, Tennessee. Subject buildings were erected in 1977, 1984 and 1995 and are utilized to manufacture pistons.

The taxpayer contended that subject property should be valued at \$12,200,000. In support of this position, the testimony and appraisal report of Dean A. McQuown, CMI was offered into evidence. Mr. McQuown considered all three approaches to value and concluded that the cost, sales comparison and income approaches support value indications of \$12,586,000, \$11,984,000 and \$12,770,000 respectively. Mr. McQuown placed greatest weight on the sales comparison approach and correlated the various indications of value at \$12,200,000.

The assessor contended that subject property should remain valued at \$16,992,400. In support of this position, Mr. Ely essentially argued that Mr. McQuown's appraisal report should not receive any weight because several of the comparables in the report, as well as previously supplied comparables, are not truly comparable. In addition, Mr. Ely introduced a fixed asset listing obtained from the taxpayer showing a book value of \$39,580,864.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic

and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$12,200,000 in accordance with Mr. McQuown's appraisal report. The administrative judge finds that Mr. McQuown's appraisal conforms with generally accepted appraisal practices and represents the most thorough analysis in the record.

Since the taxpayer is appealing from the determination of the Hamblen County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that Mr. McQuown's appraisal report unquestionably constituted sufficient evidence to establish a prima facie case. As will be discussed below, the administrative judge finds that the assessor introduced insufficient evidence to rebut the taxpayer's prima facie case.

The administrative judge finds that none of the assumptions contained in Mr. McQuown's cost and income approaches were challenged by Mr. Ely. The administrative judge finds that both approaches were properly documented and must be considered unrefuted.

With respect to the sales comparison approach, the administrative judge finds that many of Mr. Ely's criticisms were directed towards sales that were not included in Mr. McQuown's appraisal report. The administrative judge finds the fact Mr. McQuown

agreed with Mr. Ely and discarded sales he had initially considered does not undermine Mr. McQuown's credibility.

The administrative judge finds that the various sales contained in Mr. McQuown's appraisal report were verified and adjusted in accordance with generally accepted appraisal practices. The administrative judge finds that the sales given greatest weight had the fewest adjustments, are in the same industry and closest in age to the subject.¹

Respectfully, the administrative judge finds that the assessor did not introduce a cost, sales comparison or income approach into evidence.² The administrative judge finds that the \$39,580,864 book value compiled from the fixed asset listing has no probative value standing by itself insofar as market value is concerned. Obviously, the assessor did not contend subject real property has a market value anywhere near the book value reported for federal income taxes.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$398,400	\$11,801,600	\$12,200,000	\$4,880,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

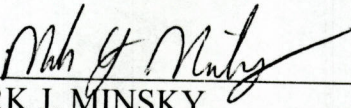
¹ It should be noted that some of the sales occurred after the relevant assessment date of January 1, 2006. However, the administrative judge finds that post-assessment date sales have been allowed into evidence to confirm what could have reasonably been assumed on the assessment date or a trend in values. See *George W. Hussey* (Assessment Appeals Commission, Davidson Co., Tax Year 1991); and *Christine Hopkins* (Assessment Appeals Commission, Franklin Co., Tax Years 1995 & 1996). Similarly, sales that close after the assessment date, but were under contract prior to the assessment date have been allowed into evidence. See *Crown American Properties* (Assessment Appeals Commission, Anderson Co., Tax Years 2002 & 2003).

² At the close of the hearing, the property record card was entered into evidence at the administrative judge's suggestion. The administrative judge finds that the property record card was developed in conjunction with the 2005 countywide reappraisal program and is the basis for the current appraised value.

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 1st day of May, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Dean A. McQuown
Keith Ely, Assessor of Property